

which the investigating officer is aware.

(b) The investigating officer may offer evidence and argument in aggravation of the charge or charges found proved.

(c) The respondent is allowed to comment on or offer evidence regarding prior maritime service including the prior record introduced by the investigating officer and any commendatory information.

(d) The respondent may offer evidence and argument in mitigation of the charge or charges found proved.

(e) The investigating officer may offer evidence and argument in rebuttal of the evidence and argument introduced by the respondent in mitigation.

§ 5.567 Order.

(a) The Administrative Law Judge enters an order which recites the disposition of the case. When a charge has been found *not proved*, the order will state the charge is *dismissed* with or without prejudice. When a charge is found *proved*, the Administrative Law Judge may order an *admonition*, *suspension* with or without probation, or *revocation*.

(b) The order is directed against all licenses, certificates or documents, except that in cases of negligence or professional incompetence, the order is made applicable to specific licenses, certificates or documents. If the Administrative Law Judge determines that the respondent is professionally incompetent in the grade of the license, certificate or document held, but is considered competent in a lower grade, the license, certificate or document may be revoked and the issuance of one of a lower grade ordered.

(c) An order must specify whether the license, certificate or document affected is:

- (1) Revoked;
- (2) Suspended outright for a specified period after surrender;
- (3) Suspended for a specified period, but placed on probation for a specific period; or
- (4) Suspended outright for a specified period, followed by a specified period of suspension on probation.

(d) The order will normally state, *that the license, certificate or document is*

to be surrendered to the Coast Guard immediately, if the order is one of revocation or includes a period of outright suspension. In cases involving special circumstances, the order may provide for surrender on a certain date.

(e) The time of any period of outright suspension ordered does not commence until the license, certificate or document is surrendered to the Coast Guard. The time of any period of suspension on probation begins at the end of any period of outright suspension or the effective date of the order if there is no outright suspension.

§ 5.569 Selection of an appropriate order.

(a) This section addresses orders in a general manner. The selection of an appropriate order is the responsibility of the Administrative Law Judge, subject to appeal and review. The investigating officer and the respondent may suggest an order and present argument in support of this suggestion during the presentation of aggravating or mitigating evidence.

(b) Except for acts or offenses for which revocation is mandatory, factors which may affect the order include:

- (1) Remedial actions which have been undertaken independently by the respondent;
- (2) Prior record of the respondent, considering the period of time between prior acts and the act or offense for which presently charged is relevant; and
- (3) Evidence of mitigation or aggravation.

(c) After an order of revocation is entered, the respondent will be given an opportunity to present relevant material on the record for subsequent consideration by the special board convened in the event an application is filed in accordance with subpart L of this part.

(d) Table 5.569 is for the information and guidance of Administrative Law Judges and is intended to promote uniformity in orders rendered. This table should not affect the fair and impartial adjudication of each case on its individual facts and merits. The orders are expressed by a range, in months of outright suspension, considered appropriate for the particular act or offense